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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

PETER B. ROLLINS,)	No. C 12-2047 PSG
)	
Plaintiff,)	
)	
v.)	PROPOSED ORDER RE
)	DEFENDANT'S MOTION TO DISMISS
)	AND CASE MANAGEMENT SCHEDULE
RAYMOND E. MABUS, SECRETARY OF)	
THE NAVY, KENNETH W. BENCH,)	
JEFFREY S. PRAY, SHAYNE GARDNER)	
and DOES 1 through 100, inclusive,)	
Defendants.)	

On July 5, 2012, federal defendants filed a non-dispositive motion to dismiss. Document 9. In that motion, federal defendants argued:

(1) Plaintiff's tort claims for defamation, intentional infliction of emotional distress, and assault must be dismissed because Title VII is plaintiff's exclusive remedy.

(2) Plaintiff's tort claims are defective because (a) they are barred by sovereign immunity because plaintiff has not exhausted his administrative remedies as required by the FTCA; (b) individual federal defendants are not proper defendants under the FTCA; (c) defamation and assault claims are excepted from the FTCA; and (d) the FTCA bars claims for punitive damages.

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1 (3) Plaintiff's Title VII causes of action contain defective claims that fail Title VII's
2 timeliness and administrative exhaustion requirements because (a) those claims involve discrete
3 acts that must meet Title VII's timeliness and administrative exhaustion requirements; (b)
4 plaintiff's discrimination and retaliation claims regarding reassignment fail Title VII's timeliness
5 requirement; and (c) plaintiff's discrimination claim regarding light duty assignments fail Title
6 VII's administrative exhaustion requirement.

7 (4) Plaintiff's retaliation claim regarding plaintiff's AWOL charges must be dismissed
8 under Rule 12(b)(6).

9 On August 15, 2012, plaintiff filed a statement of non-opposition to defendants' motion
10 to dismiss. Document 13.

11 On August 21, 2012, defendant's motion to dismiss and a case management conference
12 came on for hearing. Eugene S. Thompson appeared for plaintiff Peter B. Rollins. Assistant
13 United States Attorney James A. Scharf appeared for the federal defendants. Plaintiff Peter B.
14 Rollins was also present in the courtroom. At the hearing, the parties jointly proposed that the
15 Court issue an order on defendant's pending motion to dismiss, clarifying which claims survive
16 defendant's motion, and requiring defendant to file an answer to plaintiff's Complaint for
17 Damages filed April 24, 2012, Document 1, as modified by the Court's order on defendant's
18 motion to dismiss. The Court directed AUSA Scharf to submit a proposed order after hearing,
19 including a proposed case management schedule, for the Court's review.

20 For the reasons set forth in defendant's unopposed motion to dismiss, and pursuant to the
21 agreement of the parties, the Court hereby dismisses with prejudice all claims against all
22 defendants except plaintiff's claim for discrimination under Title VII against Raymond E.
23 Mabus, Secretary of the Navy, based on plaintiff being charged with AWOL and receiving a
24 Decision on his Proposed Suspension.

25 Defendant shall file an answer to plaintiff's Complaint for Damages filed April 24, 2012,
26 as modified by this Order, within 30 calendar days of the filing of this Order.

27
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Further, again pursuant to the agreement of the parties, the Court adopts the following case management schedule as proposed in the parties' joint case management conference statement:

Fact Discovery Cutoff:	March 1, 2013
Plaintiff's Expert Disclosure with Reports:	March 15, 2013
Defendant's Expert Disclosure with Reports:	April 12, 2013
Rebuttal Expert Disclosure with Reports:	May 3, 2013
Expert Discovery Cutoff	May 17, 2013
Motions Hearing Deadline	June 4, 2013
Final Pretrial Conference	August 6, 2013, 2:00 p.m.
Jury Trial	August 19, 2013

Good cause appearing, and pursuant to the stipulation of the parties, it is so ordered.

Dated: August 45, 2012


Hon. Paul S. Grewal
United States Magistrate Judge

APPROVED AS TO FORM AND CONTENT:

Dated: August 22, 2012

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/S/
James A. Scharf
Assistant United States Attorney
Attorney for Defendant

/S/
Eugene S. Thompson
Attorney for Plaintiff

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